

October 7, 2003

A regular meeting of the Redmond City Council was called to order by Mayor Rosemarie Ives at 7:30 p.m. in the Council Chambers. Councilmembers present were: Cole, Dorning, McCormick, Misener, Paine, Plackett, and Robinson.

PROCLAMATION - DOMESTIC VIOLENCE AWARENESS MONTH

The Mayor read a Proclamation declaring October 2003 Domestic Violence Awareness Month in the City of Redmond. The Mayor presented the Proclamation to Assistant Police Chief Larry Gainer.

PROCLAMATION - TRAFFIC SAFETY MONTH

The Mayor read a Proclamation declaring October 2003 Traffic Safety Month in the City of Redmond. The Mayor presented the Proclamation to Susan Byszeski, Public Works Transportation, and PTSA members from Redmond Elementary, who were in attendance with children involved in the Walk Your Child to School Day program.

RECOGNITION

The Mayor introduced Frank Mirabelli, a student at Redmond High School, who produced an educational video on the perils of drinking and driving.

INTRODUCTION

Tom Trueblood, Recreation Division Manager, introduced Brandi Dorsett, Teen Programs Director in the Parks and Recreation Department.

ITEMS FROM THE AUDIENCE

William Dunlap, General Manager, Pacific Properties, 14410 Bellevue-Redmond Road, Bellevue 98007, said he is involved with the Fisher Village development on 168 Avenue NE, on the north side of NE 116 Street. The developer, he continued, went through an extensive hearing process and tried to convince the Hearing Examiner that the developer should only be responsible for its fair share of improvements on NE 116 Street. He noted the developer is now in the process of constructing frontage improvements, and will be spending over \$200,000. He added the others who will benefit from this improvement, the city, and those who use NE 116 Street, need to step up and pay their fair share.

Duana Kolouslova, attorney representing the NE 116 Street group, 1500 117 Avenue SE, Suite 102, Bellevue 98004, said her clients did not receive formal notice of the Council's deliberations tonight. She noted they are concerned that interested parties in the entire overlay district have not received notice of meetings at which this issue has been

discussed throughout the process, and have not had an opportunity to testify. She added if there had been notification that the Council would be deliberating tonight, more people from the community would be here to testify about the six hundred percent increase in impact fees. She expressed concern about the legality of an overlay district, and said it would not be upheld in a court of law. She stated it is clear the city does not have funding committed to the project, and it is a significant burden on the public to construct a road improvement project that does not accommodate more traffic as population grows within the city limits and in King County. She concluded that the Planning Commission recommended a credit system for the development that has already contributed money or built frontage improvements, but it is not clear as explained by staff.

Councilmember Cole stated that the Planning Commission, a hearing body for the Council, has worked the better part of the year on this issue, and the report has been out for some time.

Ms. Kolouslova said the developers attended several Planning Commission meetings, but the Commission was not considering a specific proposal, it was an idea. She said the community had no idea an emergency hearing was held to review the ordinance.

Councilmember Robinson said the Council had a study session on this last week, and staff presented a chronological review of what has happened to date. Ms. Kolouslova said the NE 116 Street group has had an opportunity to review the proposal that went to the Planning Commission, but the City Council is the body that adopts the ordinance, and the Council needs to hear what their constituents have to say.

Councilmember Robinson said local improvement districts (LIDs) are standard forms of assessment for utilities, but he was not aware of a LID on roads. Ms. Kolouslova replied it is not a LID, it is an overlay district that is not supported. She said a LID has a list of requirements the city needs to follow, but the overlay process skips the opportunity for the community to comment.

The Mayor said she was at one of the first meetings with Ms. Kolouslova and her associate, and it is the attorney's responsibility to keep apprised of what is going on, since she represents a number of developers.

Ms. Kolouslova said she was not provided with a copy of the Planning Commission recommendation until she requested it last week, even though she asked to be part of the mailing list and to be provided with updates.

Richard Grubb, 17134 NE 84 Street, supported the Sammamish Habitat Improvement Project No. 3 and reminded the Council of the commitment made in 1999 when the stormwater surcharge rate for capital projects was approved. He recalled that this was one of those capital projects.

On another topic, Mr. Grubb urged the Council to support the contract with Waste Management, Inc., which would include all recyclables in one container.

Terry Lavender, 17304 208 Avenue NE, Woodinville 98072, asked the Council to support the Sammamish Habitat Enhancement Project No. 3. She said she is a member of the Water Resource Inventory Area (WRIA) 8 Steering Committee, and is aware of the importance placed on improvements to the Sammamish River.

Jim Tosti, 7981 168 Avenue NE, said he has been following the NE 116 Street project for a number of years. He is involved in developing a spine road almost identical to what is being proposed on NE 116 Street, and the costs are about \$300 per lineal foot, versus the city's costs of \$2,400 a lineal foot. He proposed that the city extend an offer to the development community to be involved in the process so a solution that will work for everybody can be crafted, rather than allowing the issue to become adversarial.

Charlie McCarthy, 17639 NE 34 Court, representing the Planning Commission, said he was part of the subcommittee that brought the recommendation to the Planning Commission as a whole and supported the proposed ordinance. He addressed issues raised tonight:

- When the city and the neighborhoods began the design process the cost of the roadway improvements was not itemized.
- People will pay their fair share for the cost of the improvements; the development community will be credited for the improvements already made.
- Cost per lineal foot of the roadway improvements for NE 116 Street will be different from other roads because it is a unique two-mile-long roadway with topography not like any other. To handle the stormwater in such a unique environment could not be addressed adequately with a certain cost per lineal foot.
- Work between the city and the development community was a good idea, but the Planning Commission did not receive any concrete proposals from the development community.
- He did not believe that the impact fee overlay district set a dangerous precedent for the future. Traffic flow will be improved with the left turn lanes.

CONSENT AGENDA

Motion by Ms. Dorning, second by Mr. Paine, to approve the following items of the Consent Agenda:

- (1) approve the minutes of the special meetings of September 9, 2003 and September 15, 2003 and the regular meeting of September 16, 2003

- (2) approve the following payroll/direct deposit and claims checks:

PAYROLL/DIRECT DEPOSIT CHECKS:

#156152 through 156281
#114622 through 115197 \$1,194,071.03

CLAIMS CHECKS:

#209153 through 209746 \$5,985,602.14

- (4) approve acquisition of the vacant King County Redmond Shop Site property (tax parcel No. 112505-9026) located between Leary Way and the Burlington Northern Railroad corridor for an as-is purchase consideration amount of \$1,370,000, Project No. 03-CI-53; and authorize the Mayor and staff to complete the transaction
- (5) approve the Conceptual Design Report dated November 2002; Supplemental Consultant Agreement No. 1 with Parametrix, Inc. for final design services in the amount of \$157,459.80 including contingencies; accept the King County Conservation District Grant in the amount of \$150,000 to provide partial funding for the Sammamish Habitat Enhancement (HEP) No. 3, Project No. 01-CI-59; and authorize the Mayor to sign the agreement and the grant
- (7) approve the selection of CH2M Hill as the most qualified firm to provide the engineering services (utility relocation design) for State Route (SR) 202 widening from SR 520 to Sahalee Way; that the fair and reasonable price is \$211,905

including contingencies; authorize the Mayor to sign the agreement; and authorize the Mayor to sign the "Utility Preliminary Engineering Agreement" between the City of Redmond and Washington State Department of Transportation (WSDOT) to allow reimbursement of the city's costs associated with designing the impacted utilities, Project No. 99-CI-46

- (8) approve Resolution No. 1177, relating to finances, voiding certain outstanding non-interest-bearing warrants and checks, which was presented and read
- (9) adopt Ordinance No. 2178, making adjustments to the 2003-2004 City budget, amending Ordinance No. 2144, which was presented and read.
- (10) authorize a Capital Improvement Program (CIP) allocation of \$20,000 for the Old Firehouse Teen Center exterior finish work, Project No. 01-CI-03, and an allocation of \$45,000 for the construction of the Firefighters' Plaza at the newly-renovated Fire Station 11.

Upon a poll of the Council, Cole, Dorning, McCormick, Misenar, Paine, Plackett, and Robinson voted aye. Motion carried unanimously (7 - 0).

CONSULTANT AGREEMENT FOR ENGINEERING SERVICES, 2004 SIDEWALK IMPROVEMENTS, PROJECT NO. 04-CI-80

The Mayor, in a memorandum to the Council dated October 7, 2003, recommended approval of the consultant agreement for the 2004 Sidewalk Improvements Project.

Councilmember Dorning said she was concerned that many of the improvements in this project are to fix areas where street trees are lifting the sidewalk and causing unsafe conditions. She wondered if the city is now planting trees that do not create this problem. She asked staff to provide her with a list of the species of trees that are now being used.

Bill Campbell, Assistant Director of Public Works, explained that the city is planting a different species of trees. He

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said there are a lot of the other trees still out there, but the city is doing its best to put in the new type of tree.

Motion by Ms. Dorning, second by Mr. Cole, to approve the consultant agreement with OTAK, Inc. for design services for the 2004 Sidewalk Improvements Project, No. 04-CI-80, in an amount not to exceed \$220,000 including contingencies; authorize staff to acquire necessary right-of-way or easements for sidewalk placement, if required; and authorize the Mayor to sign the agreement. Motion carried unanimously (7 - 0).

COMPREHENSIVE GARBAGE, RECYCLABLES, AND YARD DEBRIS COLLECTION CONTRACT WITH WASTE MANAGEMENT OF WASHINGTON, INC.

The Mayor, in a memorandum to the Council dated October 7, 2003, recommended approval of the garbage, recycling, and yard debris collection contract with Waste Management, Inc.

Councilmember Cole said he pulled this item because some members of the Council were concerned about it being on the Consent Agenda.

Motion by Mr. Cole, second by Ms. Dorning, to authorize the Mayor to execute, on behalf of the City of Redmond, the Comprehensive Garbage, Recyclables, and Yard Debris Collection Contract with Waste Management of Washington, Inc.

Councilmember Plackett said she was concerned about the lack of a competitive process in selecting this provider, but Waste Management, Inc. has some new innovative programs for our customers, so she would support it.

In response to questions by Councilmembers Dorning and Robinson regarding how residents would be informed about the new collection services, Jon Spangler, Natural Resources Division Manager, explained that education is a large component of the project. He said the contractor and the city will begin the information process as soon as the contract is signed. In addition, Waste Management, Inc. will be providing increased staffing for customer service to answer people's calls.

Councilmember McCormick wondered if the city's development review process took into consideration the need for interior space of apartment and condominium buildings for recycling containers. James L. Roberts, Deputy Planning Director, said the city's review process does not include provisions

for storage of recycling areas in the interior of apartments and condominiums.

Motion carried unanimously (7 - 0).

REPORTS

Staff Report - City Hall Update

Mike Paul, Project Manager, and Cindy Edens, Wright Runstad, updated the Council on the City Hall project.

In response to Council questions regarding when the lease agreements would be presented to the Council for approval, James E. Haney, City Attorney, clarified that since the city will not be leasing the entire campus, it must be subdivided into specific parcels. The city cannot lease the parcels until they are created through the Binding Site Plan process.

Motion by Ms. McCormick, second by Mr. Misener, to direct staff to do everything possible to present the lease contracts for Council consideration at a special meeting at the end of October 2003.
Motion carried unanimously (7 - 0).

Staff Report - Tree Regulations Update

Judd Black, Development Review Division Manager, reported on how the city handles single-family applications for tree removal. Mr. Black responded to Councilmembers' questions regarding whether or not the regulations create a hardship for homeowners and explained elements of the tree replacement policy and fund.

Staff Report - Second Quarter 2003 Financial Update

The Finance Director, in a memorandum to the City Council dated October 7, 2003, summarized financial activity for the period ending June 30, 2003.

Staff Report - Council Vacancy-Next Steps

Councilmember Misener was not present for this discussion.

The City Clerk, in a memorandum to the Mayor and City Council dated October 7, 2003, outlined a process with three alternatives by which the Council could choose to fill the vacancy created by Councilmember Misener's resignation from the Council, which will be effective October 31, 2003.

Councilmember Cole said his preference would be to fill the vacancy as soon as possible, and, hopefully, have the person

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appointed by Thanksgiving. He proposed that the Council schedule a special meeting to interview the candidates rather than conducting interviews at a regular meeting. Councilmembers Dorning, McCormick, and Plackett concurred.

Councilmember Paine questioned whether or not an outgoing Council should vote on this appointment. He suggested that newly-elected Councilmembers voting on the position would have more of a nexus. He favored Alternative 2, to vote on the appointment after the November 2003 election, at the beginning of 2004.

Councilmember McCormick stated that candidates should submit a letter of interest describing their goals and vision of what they hoped to accomplish as a Councilmember in conjunction with their formal application.

Jane Christenson, Executive Assistant to the Mayor, said a draft press release will go out tomorrow pending the Council's decision; the release asks for a letter describing community service and volunteer experience.

Motion by Mr. Cole, second by Mr. Paine, to approve Alternative 1, with a closing date for applications of November 10, 2003, and the rest of the dates to be determined. Motion carried unanimously (6 - 0).

Councilmember Misenar returned to the dais.

Staff Report - Morelli Property

James L. Roberts, Deputy Planning Director, reported that the Technical Committee approved the short plat, the applicant submitted the first round of construction drawings for review, and they have been returned to the applicant. He said there has not been a resubmittal. He said staff would follow up and report back to the Council.

RECESS

The Mayor declared a recess at 9:30 p.m. The meeting reconvened at 9:45 p.m.

WILDLIFE HABITAT PLAN

Roberta Lewandowski, Director, Planning and Community Development, said she would like the current Council to adopt portions of the Wildlife Habitat Plan on which the Council has agreed and defer action on the remaining policies until 2004 when the Council will be reviewing changes to the Sensitive Area Ordinance.

Councilmember Dorning requested that the proposed action be brought back in November 2003, since she will not be able to attend the October 21, 2003 meeting.

OMBUDSMAN REPORT

Councilmember Cole said he has continued to receive input on the entranceway to Redmond High School. He added he also received a complaint about home businesses operating without a license that he referred to the Code Enforcement Officer. He concluded he also received a call from a citizen concerned about the increasing rabbit population in the city.

Councilmember McCormick said she heard several observations about increased speed on West Lake Sammamish Parkway. She stated it is critical that the city set the tone through increased enforcement.

Councilmember Plackett received comments from residents on the upper side of West Lake Sammamish Parkway about how much quieter it is. Also, she did some doorbelling in Sammamish Forest Manor neighborhood and asked for copies of the staff report on the landslide that occurred there nearly two years ago.

2004 COMMUNITY EVENTS (tabled at the September 16, 2003 meeting)

The Mayor, in a memorandum to the Council dated October 7, 2003, recommended that the Council authorize funding resources for Derby Days and the Fourth of July Fireworks.

Motion by Mr. Cole, second by Ms. Dorning, to authorize resources for two community events as follows:

- Derby Days Location and Administration Funding: Review and discuss options for the location of the 2004 Derby Days event, and authorize a \$25,000 contract for Derby Days planning and administration.
- 2004 Fourth of July Funding: Authorize \$58,800 for production of the 2004 Fourth of July Fireworks Celebration, consistent with the 2003 Council action.

The proposed source of funding for both requests is the unallocated contingency funds set aside for the Redmond Pool that exceed 2003-2004 needs.

Councilmember Plackett said she supports Derby Days and the fireworks events, but she did not support using excess pool funds to pay for these events; she would like to identify

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contingency funds or others ways to fund these events. If the Council votes to take the monies from pool funding, she continued, she would like to talk about how to replace the pool funds so the city could be able to continue pool operation if Northwest Center's operating plan fails. She thought the fund should remain whole to make sure the pool has reserve operating funds.

The Mayor noted the Council's receipt of a letter from Northwest Center stating that things are going well and grant monies are being received.

Councilmember Paine said he thought the pool funds were set aside in case the city had to take over operation of the pool, but now that we know Northwest Center has been able to operate the pool successfully, the funds are sitting there without a purpose.

The Mayor stated that the school district has continued its annual commitment of \$17,000, which has reduced the city's annual liability down to \$83,000.

Councilmember Robinson said based upon the Northwest Center's operations to date, it appears the funds the Council set aside in the budget will not be required. He added he would support the recommended action.

Councilmember Dorning recalled that the \$400,000 was set aside in case the city needed the funds to operate the pool. Since the pool is operating successfully, she did not have a concern about using the funds for other Park and Recreation Department programs, she concluded.

Motion carried (6 - 1) with Plackett voting nay.

DISCUSSION REGARDING CANCELLING THE NOVEMBER 4, 2003 REGULAR MEETING AND HOLDING A SPECIAL MEETING ON MONDAY, NOVEMBER 3, 2003

Motion by Ms. McCormick, second by Mr. Paine, to cancel the November 4, 2003 regular Council meeting and hold a special meeting on Monday, November 3, 2003. Motion failed (3 - 4), with Dorning, McCormick, and Paine voting aye.

ORDINANCE - NE 116 STREET IMPROVEMENTS IMPACT FEE OVERLAY DISTRICT

The Mayor, in a memorandum to the Council dated October 7, 2003, recommended approval of the ordinance creating a NE 116 Street Transportation Impact Fee Overlay District and establishing a corresponding impact fee.

Motion by Mr. Cole, second by Mr. Misenar, to adopt Ordinance No. 2179, creating a NE 116 Street Transportation Impact Fee Overlay District, and establishing a corresponding impact fee.

Referring to Attachment D, page four, Councilmember McCormick asked what was the nature of the prior Local Improvement District (LID)? Bill Campbell, Assistant Director of Public Works, replied that LID 56 covered water and sewer on Avondale Road and up NE 116 Street.

Councilmember McCormick asked the City Attorney to comment on whether or not the impact fee overlay district was constitutional. James E. Haney, City Attorney, disagreed with the Ms. Kolouslova's analysis as he and the courts view impact fees as taxes. The statute says the city can establish service areas relative to improvements and impact fees are charged according to transportation management districts.

Charlie McCarthy explained why the initial \$8,000 overlay impact fee was reduced to \$6,000. He said the Planning Commission Subcommittee recommended an \$8,000 fee, which represented the portioned-out cost based on the total cost to build the improved roadway, the appropriate percentage of the entire cost. The Planning Commission questioned whether or not the entire project cost should be used since the improved NE 116 Street would not be a standard arterial. The \$6,000 fee is based upon the cost of a standard arterial, he concluded.

Motion by Mr. Paine, second by Mr. Misenar, to amend the ordinance to base the impact fees on 54 percent of the cost of the 84 foot cross section described in the Comprehensive Plan and preliminary design.

Councilmember Paine stated that people living in the overlay district will benefit from the roadway improvements. Having the general public pay for specific amenities is not good policy, he noted. Growth should pay for growth, he concluded. Councilmember Misenar agreed. He added that the growth in the area will increase traffic along NE 116 Street and the homeowners in the area will benefit.

Councilmember Plackett suggested that the Council table this item to allow the development community additional time to comment on the proposed ordinance. She questioned the need for a special overlay district and was concerned about the precedent it would set. She understood that through impact fees development pays for some of the growth, but was concerned that this proposal would change the "rules in the

middle of the game." Perhaps, she commented, the Council should review the structure of all impact fees, not just those for this roadway. She concluded that the impact fees approved under this ordinance would only contribute \$5 million towards a \$22 million project.

Councilmember Dorning agreed with Councilmember Plackett. In Southeast Redmond, she continued, developers are paying a minimal impact fee and are not contributing additional funds to pay for the multi-million dollar project of widening SR 202, even though they will benefit from those road improvements. It is not fair to put a special taxation on the new homes in the NE 116 Street corridor because the roadway will not add value to the homes; in fact those homes closest to the road will have lower property values, she stated. In times of tight transportation dollars, there is no reason to build this roadway for a special community; it should be built for the whole community, she added. She noted that predictability is critical and the city should have been setting funds aside in the transportation capital investment program to pay for these improvements. She concluded that the Planning Commission did a good job, but she could not support the proposed overlay district.

Councilmember Robinson stated that the city cannot levy new impact fees that are four times the current impact fees to solve a particular problem on NE 116 Street. Drawing a parallel between a special overlay district and a LID works fine with utilities as the customers are defined. However, the improvements to NE 116 Street will be an amenity for all residents to share, he noted. He concluded that he supported impact fees and the business license surcharge because they are fair and valid to support transportation basic infrastructure, but to single out a neighborhood for an amenity is not fair.

The amendment failed (2 - 5) with Misenar and Paine voting aye, and Cole, Dorning, McCormick, Plackett, and Robinson voting nay.

Councilmember Cole said the Planning Commission is the hearing body for the City Council, and all parties had an opportunity to provide their input to the Commission and also to the Council. If the development community was to propose alternatives that are less costly, he was willing to consider them, he added. The Council can always revisit the ordinance and change it, he noted. He concluded that he would support the main motion.

Councilmember McCormick wondered if the Council could pass the ordinance tonight with direction to add a clause to allow the flexibility for future changes and to give developers and staff a chance to work together on a

solution. She added that if the funding for the project increases, she would like language added to the ordinance such that the impact fees would reflect a corresponding decrease.

Mr. Haney advised the Council can always come back and amend an ordinance, but this is an amendment to the Redmond Community Development Guide, and he was not sure what Councilmember McCormick is proposing would work within that context.

Ordinance No. 2179, adopting a NE 116 Street Transportation Impact Fee Overlay District as an amendment to Chapter 20D.210 of the Redmond Municipal Code and Redmond Community Development Guide; establishing a transportation impact fee for such district; providing for severability; and establishing an effective date, was presented and read.

Upon a poll of the Council, Cole, McCormick, Misenar, and Paine voted aye. Motion carried (4 - 3) with Dorning, Plackett, and Robinson voting nay.

Councilmember McCormick said her aye vote comes with a challenge to the developers to propose an alternative funding solution. She stated that she voted in support of the motion with the possibility of reconsideration.

COMMITTEE REPORTS

Committee Report - Parks and Human Services Committee

Councilmember Plackett announced a meeting of the Parks and Human Services Committee on Wednesday, October 8, 2003, at 4:00 p.m. in the Council Conference Room.

Committee Report - Planning and Public Works Committee

Councilmember Robinson announced a meeting of the Planning and Public Works Committee on Wednesday, October 15, 2003, at 4:00 p.m.

ADJOURNMENT

There being no further business to come before the Council, the Mayor declared the meeting adjourned at 11:20 p.m.

MAYOR

CITY CLERK

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